

Applicant : Rodney S. Daughtrey
Serial No. : 10/697,823
Filed : October 30, 2003
Page : 6 of 16

Attorney's Docket No.: 09765-019002

Amendments to the Drawings:

The attached replacement sheets of drawing include changes to Figs. 1 and 2 and replace the original sheets including Fig. 1 and 2.

In Figure 1, the legends "Remote Resource" "client" and "network" were added to 21a and 21b.

In Figure 2, the reference number "56b" was added

Attachments following last page of this Amendment:

Replacement Sheet (7 pages)
Annotated Sheet Showing Change(s) (2 pages)

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REMARKS

Applicant notes that the status of claim 32 in the prior response should have been “Currently Amended.” Applicant acknowledges that the claim was properly amended, and the amendment was properly entered by the office.

The examiner noted that applicant's inadvertently failed to respond to the Examiner's objection to the drawings.

Applicant has included proposed drawing revisions and changes to the specification to refer to the summary table as summary table 72. Accordingly, the specification was amended to delete “74.”

The examiner also indicated that boxes 21b, 22, 30a and 30b should be labeled. Applicant believes that the prior drawings submitted on July 23, 2004 included these legends. Nonetheless, Applicant has submitted new, corrected drawings and annotated sheets from the original drawings filed with the case.

Applicant has also made an amendment to the paragraph on page 2 starting on line 24 to discuss the remote resources 21a, 21b and clients 30a-30c, as disclosed in the incorporated by reference application. No new matter has been added. These changes were also made by Applicant in the parent application.

Applicant notes that the examiner has not furnished any rejections of these claims, especially claims 1-9, under 35 U.S.C. 101, as being directed to non-statutory subject matter. In view of the finality of this rejection, Applicant would consider it improper to furnish such a rejection in the event that applicant files an appeal brief, since the examiner has had ample opportunity to make such a rejection. In the event that the examiner believes that a 101 rejection is in order, Applicant considers it proper to have the examiner remove the finality of this rejection before Applicant responds with an Appeal Brief in order to afford Applicant due process.

Nonetheless, Applicant considers such an rejection improper at least because in claim 1 for instance, the claim requires a graphical user interface for a travel planning system and a tabular region having a plurality of cells... with the cells being controls that when selected, provide a subset of the travel options Accordingly, the claim recites a feature that performs a real world function namely controls that when selected does something, i.e., provides a subset of travel options.

The examiner maintained her rejection of Claims 1-6, 8, 10-49 under 35 U.S.C. 102(e) as being anticipated by de Marcken et al. (US Pat. 6,307,572) hereinafter de Marcken.

The examiner also maintained her rejection of Claims 7 and 9 under 35 U.S.C. 103(a) as being unpatentable over de Marcken et al. in view of Ran et al. US. 6,209,026.

Claim 1

Claim 1 is distinct over de Marcken. Clam 1 includes the features of ... a tabular region having a plurality of cells, the tabular region comprising cells arranged in plural columns and plural rows with the cells displaying a summary of a criterion of a set of travel options, and with the cells being controls that, when selected, provide a subset of the travel options that correspond to the respective criterion or criteria of the selected cell and a second region that displays aspects of the subset of the travel options resulting from selecting the respective cell in the tabular region. de Marcken does not describe these features of claim 1. In response to applicant's prior argument, the examiner stated:

Applicant has argued that deMarcken does not describe a tabular region having a plurality of cells. However, the examiner respectfully disagrees because the interface is shown in figures 22-27 contains plurality of bargraphs that represent plurality of cells. These bar-graphs are arranged in columns and rows. Each of the bar-graph acts as a control which display information when it is selected (figure 23, the second region (382) displays when one of the "JFK cell" is selected). It is clearly that the second region (382) displays a summary of travel information when one of the cell is selected.

Applicant points out to the examiner that Applicant previously and continues to argue that de Marcken does not describe a tabular region having a plurality of cells, the tabular region

comprising cells arranged in plural columns and plural rows with the cells displaying a summary of a criterion of a set of travel options, While the examiner can take the position that the bar graphs depict a tabular region that is not what Applicant has claimed. Rather, Applicant has claimed and argued that de Marcken does not show a tabular region with plural cells “arranged in plural columns and plural rows” with the cells displaying a summary of a criterion of a set of travel options In de Marcken, a bar graph does not represent a summary of travel options according to a criterion, as contended by the examiner, but instead represents a single pricing solution (i.e., the combination of a flight or flights with a fare that can result in a single ticket).

Unlike claim 1, the bar graph does not summarize a criterion of a set of travel options. Rather, each bar in the bar graph is a pictorial representation of a specific travel option. Applicant also considers it illogical and unreasonable for the examiner to construe the bars in the graph as being arranged in “columns and rows” in an attempt to interpret de Marcken as teaching the claimed tabular region. While the examiner can argue that the bars in the bar graph are arranged in rows, it is illogical to argue that the different bars are also arranged in columns, since there is no logical meaning to ascribe to columns of bars in a bar graphs in the de Marcken reference.

Claim 1 further distinguishes since de Marcken fails to disclose that the bar graph correspond to “cells being controls that when selected, provide a subset of the travel options that correspond to the respective criterion or criteria of the selected cell and a second region that displays aspects of the subset of the travel options resulting from selecting the respective cell in the tabular region.” de Marcken teaches that selecting one of the bars launches a window that depicts details of an aspect of the travel option represented by the one bar. (See for example Fig. 23, where window 23 is overlaid on the window 352 of Fig. 22.) In contrast, claim 1 features that the cell is a control that, when selected, provides a subset of the travel options. de Marcken does not select a bar graph to provide a subset of the travel options that correspond to the respective criterion or criteria of the cell, since the bar of the bar graph already depicts the travel option, whereas the cells in claim 1 depict a summary (according to a criterion or criteria) of a

group of travel options. Thus, when the cell is selected, the group of travel options summarized in that cell is provided according to claim 1.

In construing features of claim 1 such as “a tabular region having a plurality of cells, the tabular region comprising cells arranged in plural columns and plural rows with the cells displaying a summary of a criterion of a set of travel options” as reading “the interface [is] shown in figures 22-27 contains plurality of bargraphs that represent plurality of cells” in de Marcken, the Examiner ignores guidance from the Federal Circuit. *In re Morris*¹ stands for the proposition that while the Office is entitled to construe claim terms using their “broadest reasonable meaning,” the Examiner must apply the Court’s guidance on what “reasonable” means:

“Since it would be unreasonable for the PTO to ignore any interpretive guidance afforded by the applicant’s written description, either phrasing connotes the same notion: as an initial matter, the PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, *taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description* contained in the applicant’s specification.” [emphasis supplied]

According to *Morris*, the examiner must apply the broadest reasonable meaning “in their ordinary usage as they would be understood by one of ordinary skill in the art.” The examiner has not provided any basis upon which one of ordinary skill in the art would construe the bar graphs of Figures 22-27 of de Marcken as disclosing the claimed tabular region or cells. Moreover, in *Morris*, the specification lacked any text to guide the Examiner in construing what the disputed claim term meant. Based on the absence of any such text, the Court stated that the Examiner’s interpretation was reasonable:

Absent an express definition in their specification, the fact that appellants can point to definitions or usages that conform to their interpretation

¹ *In re Morris*, 127 F.3d 1048 (Fed. Cir. 1997).

does not make the PTO's definition unreasonable when the PTO can point to other sources that support its interpretation.

In the present application, the written description discusses the interfaces in great detail and specifically discusses the structure and operation of the tables. There is no ambiguity, as there was in *Morris*. Nevertheless, the examiner, by construing tabular region and cells to read on the bar graphs taught by deMarcken, improperly ignores guidance offered by Appellant's specification and the meaning given to those terms by the art.

Applicant does not ask the examiner to read limitations into the claims as was the case in *In re Van Geuns*². In *Van Geuns*, the specification disclosed a magnet assembly used for NMR. The claim, however, recited a magnet assembly that provided a uniform magnetic field, with no mention of NMR. The cited reference disclosed a magnet assembly that generated a relatively uniform field. *Van Geuns* is inapplicable to the present case, because the claim element "a tabular region having a plurality of cells, the tabular region comprising cells arranged in plural columns and plural rows with the cells displaying a summary of a criterion of a set of travel options," is expressly defined in the specification and positively recited in the claim. This is not a case in which the claim recites a "region" and the Examiner is being asked to import the specification's description of a "tabular region" to mean "region." Rather, this is a case in which the claim recites a particular feature and the examiner must find that feature in the prior art and not conflate it with a misinterpretation of the prior art. So, the specification is available to the examiner to help her understand what the feature of: "a tabular region having a plurality of cells, the tabular region comprising cells arranged in plural columns and plural rows with the cells displaying a summary of a criterion of a set of travel options" means.

Thus, it is well established that in construing a claim term, the Examiner may properly review the specification. In the present case, the Examiner is attempting to construe Applicant's claims without the benefit of the guidance offered by Applicant's specification. In rejecting such guidance, the Examiner has been cast adrift, so much so that she now confuses an "a tabular

² *In re Van Geuns*, 988 F.2d 1181 (Fed. Cir. 1993).

region having a plurality of cells ... arranged in plural columns and plural rows with the cells displaying a summary of a criterion of a set of travel options" with "a bar graph."

In order to sustain a rejection under 35 U.S.C. 102(b) the anticipating prior art reference must disclose all of the elements of a claimed invention arranged as in the claim. Applicant contends that for at least the foregoing reasons, de Marcken fails to satisfy this burden, either literally or based on the examiner's construction of de Marcken.

Claim 2

Claim 2 further limits claim 1 and requires that interior cells that intersect at least one column and at least one row displaying a value that summarizes travel options that meet a pair of criteria according to the criterion in a respective one of the columns and the criterion in a respective one of the rows. The examiner argues that:

Applicant argues the reference does not teach the interior cells that intersect at least one column and at least one row display a value that summarizes travel options. However, one of the bar-graph (JFK) being arranged in at least one column and at least one row displays a second region (figure 23, 382) of summarizes travel options when the bar-graph is selected (column 58, lines 58-67).

The examiner appears to argue that (JFK) is a bar graph, which is not correct, since de Marcken teaches that element 376a is an element of the bar graph 376 of which JFK denotes a stopover between legs 377b and 377d of the bar graph element 376a. The examiner argues that "[JFK] "being arranged in at least one column and at least one row displays a second region (figure 23, 382) of summarizes (sic) travel options when the bar-graph is selected (column 58, lines 58-67)." This is not what claim 2 requires. Rather, claim 2 requires interior cells ... display a value that summarizes travel options that meet a pair of criteria according to the column and row for that cell.

The examiner's analysis requires selecting the bar-graph to display a second region that summarizes travel options. This analysis does not meet the claim language as noted above and indeed is incorrect as taught by de Marcken, since the analysis is contrary to the teachings of de

Marcken. In de Marcken, window 382 does not summarize travel options, but rather displays details of the particular travel option represented by the selected bar graph element.

Claim 8

The examiner argues that the tabular region features including at least one of an airline tab, an airport tab and a flight time tab is taught by de Marcken in the table of figure 27, which is "American air", "LAX LOS ANGELES." As argued of record de Marcken does not teach a tabbed table, these features relied on by the examiner are controls not tabs of a tabbed table.

Claim 10

In rejecting claim 10, the examiner stated that: "Applicant argues deMarcken does not teach the features of Nonstop, Direct Online. However, the tabs of Nonstop, Direct Online are shown in the interface of figure 27. Each of tab (sic) displays a summarized travel option when selected."

Claim 10 is directed to a method for displaying travel options. Claim 10 includes compartmentalizing travel options into bins according to a set of criteria of the travel options and displaying a summary of the travel options in a graphical user interface according to the bins. Applicant argued that: "Claim 10 is distinct over deMarcken, since deMarcken does not describe the features of Nonstop, Direct Online, etc as bins **" Applicant also argued that deMarcken also does not describe "compartmentalizing travel options into bins." de Marcken does not describe these controls resulting from some compartmentalizing of travel solutions into bins, but instead describes: "The window 370 has a graphical region that provides a visual representation of pricing solutions extracted from the pricing graph 38'." de Marcken also does not teach displaying a summary of the travel options in a graphical user interface according to the bins. Thus, rather than teaching displaying a summary of the travel options according to the bins, de Marcken displays a bar graph representation of the actual travel options. Indeed, rather than summarizing travel options, de Marcken teaches to extract the travel options using the controls and to display a representation of the travel options.

Claim 12

With respect to claim 12, the examiner argues that:

Applicant argues deMarcken does not describe a table. However, the interfaces are shown in figures 22-27 are tables. The claimed language itself "displaying criteria associated with the bins in a two-dimensional table" is still not specific and clear enough to describe the present invention. During patent examination, the pending claims must be "given >their< broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim 12 further limits compartmentalizing the travel options into bins of claim 10 by displaying criteria associated with the bins in a two-dimensional table, with one criterion assigned to each dimension of the table. de Marcken does not assign one criterion to each dimension of a table. Applicant maintains that the interfaces depicted in Figures 22-27 are not tables or tabular regions. However, even under the examiner's interpretation of de Marcken, de Marcken fails to show one criterion assigned to each dimension of the "table."

Claim 18

Claim 18 further limits claim 10 by displaying the graphical user interface as a tabbed table. de Marcken does not suggest a tabbed table, as discussed above. de Marcken further does not describe arranging the tabbed table according to an airline tab, an airport tab and a flight time tab. de Marcken does not suggest that each tab includes a tabular region that displays summarized criteria of the set of travel options as a plurality of cells that act as controls according to the bins ...

The examiner contends that: "DeMarcken et al. teach displaying the graphical user interface as a tabbed table, a first tab being an airline tab, a second tab being airport tab and a third tab being a flight time tab (figures 27), . . ." Again, the examiner conflates unrelated features of the prior art reference without reasonable construing the features of the claims in view of applicant's specification and what the art understands those features to be. One of ordinary skill in the art would not view the airline, airport and flight time features of figure 27 as tabs of a tabbed table. Indeed, in figure 27 "flight times" is not findable. If the examiner

construes flight times to correspond to the arrival and departure histograms depicted in figure 27, clearly those are not tabs of a tabbed table. Rather, they depict histograms. Also, the airline and airport items in figure 27 of de Marcken are described as controls not tabs. Selecting an airline control in de Marcken filters the bar graphs to display only those travel options that are or involve that selected airline, whereas selecting an airport tab in claim 18 causes the travel options to be arranged in bins according to airline. Inherently, de Marcken neither describes that feature nor the feature of claim 18, where "each tab including a tabular region that displays summarized criteria of the set of travel options as a plurality of cells that act as controls according to the bins."

Claim 7, which recites that the graphical user interface of claim 6 is implemented as a web page and the controls are hyperlinks to the enumeration routines and claim 9, which limits claim 1 to graphical user interface represented in a first web page and the results region displays itineraries and includes links that invoke a second web page to display details of the itineraries are not suggested by the combination of de Marcken with Ran, since at least for the reason that the references fail to features of the base claims and Ran the secondary reference fails to address any of the missing teachings in de Marcken.

Accordingly, applicant contends that the claims are allowable for the reasons of record.

Entry of the amendments to the specification is respectfully requested, since they address objections raised by the examiner that will simplify issues on appeal and require minimal consideration by the examiner and require no additional search.

This Reply is accompanied by a Notice of Appeal.

It is believed that all the rejections and/or objections raised by the examiner have been addressed.

In view of the foregoing, applicant respectfully submits that the application is in condition for allowance and such action is respectfully requested at the examiner's earliest convenience.

All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.

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Serial No. : 10/697,823
Filed : October 30, 2003
Page : 16 of 16

Attorney's Docket No.: 09765-019002

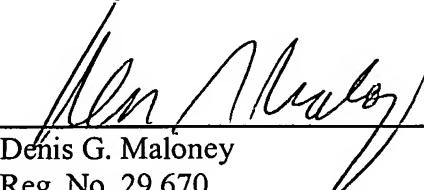
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Respectfully submitted,

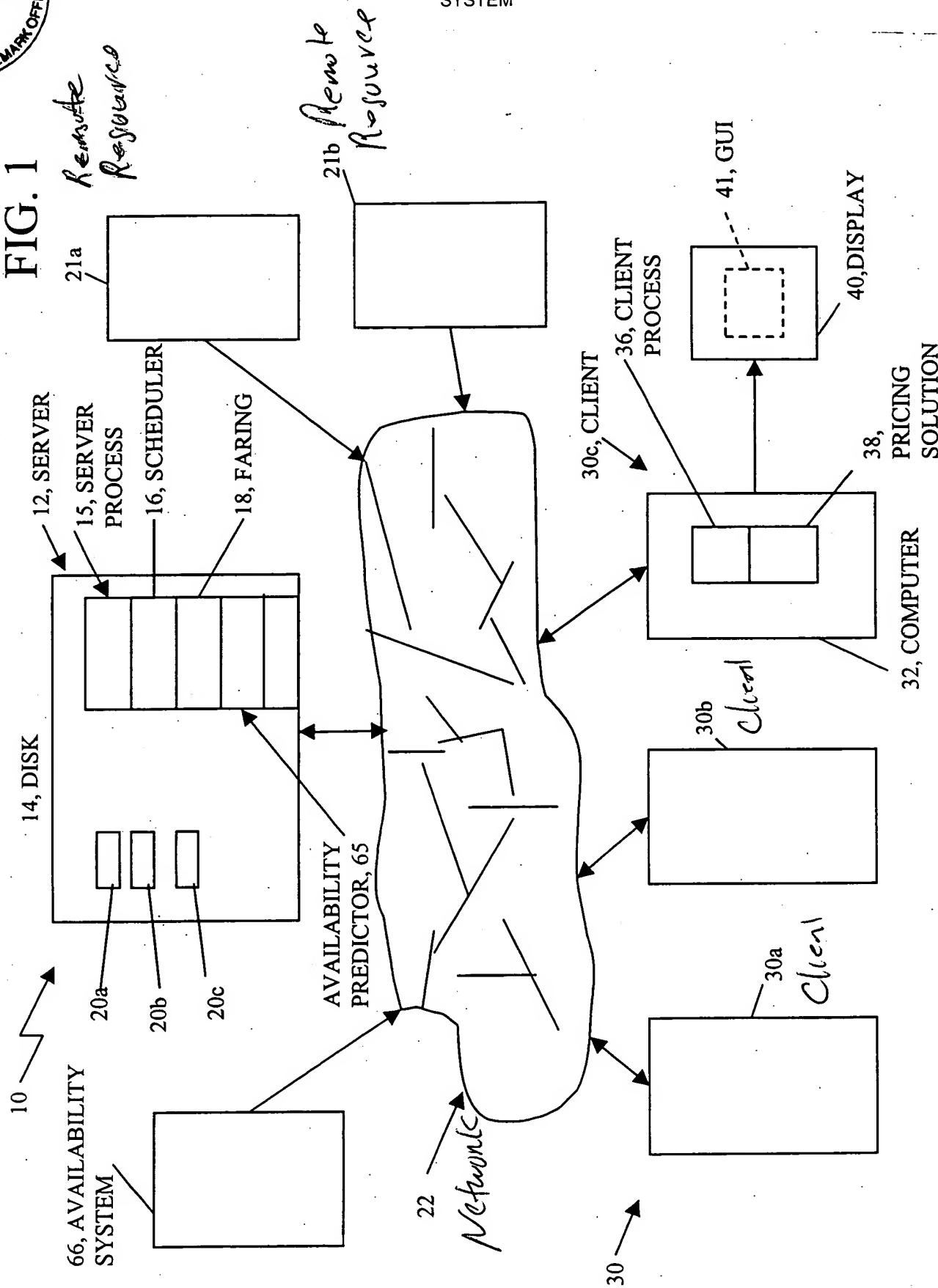
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FIG. 1



21a
 Remote
 Resource

21b Remote
 Resource

30c, CLIENT

36, CLIENT
 PROCESS

41, GUI

40, DISPLAY

32, COMPUTER
 PRICING
 SOLUTION

38,

30b
 Client

30a
 Client

22
 Network

30

50 ↗

54a 54b / 54c ↗ 55 ↗

56 ↗ Cost Saving Features: 58 ↗

57 ↗ 58 ↗ 59 ↗ 60 ↗ 61 ↗

Flight Planning:

From	<input type="text"/>	<input type="checkbox"/> Add airports within 50 miles
Depart	Nov 17 <input checked="" type="checkbox"/> Leave after 6am <input checked="" type="checkbox"/>	<input type="checkbox"/> Travel window 1 day <input checked="" type="checkbox"/>
To	<input type="text"/>	<input type="checkbox"/> Add airports within 50 miles
Return	Nov 24 <input checked="" type="checkbox"/> Leave after 6am <input checked="" type="checkbox"/>	<input type="checkbox"/> Travel window 1 day <input checked="" type="checkbox"/>

Passengers:

Adults	Seniors ages 12 - 61	Children ages 2 - 11	Infants under 2 years	<input checked="" type="checkbox"/> Check Availability
	<input type="checkbox"/> 0	<input type="checkbox"/> 0	<input checked="" type="checkbox"/>	<input type="checkbox"/> Use Experimental Java Client
	<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 0	<input checked="" type="checkbox"/>	

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